

## Department of Veterans Affairs

## § 3.403

NOTE: If apportionment under §§ 3.452(c) and 3.454 is in order or payment under § 3.850(a), Personal Funds of Patients account will not be set up but difference withheld for dependents.

(2) *Director of a Department of Veterans Affairs medical center or domiciliary.* From day following date of last payment to veteran where veteran previously received payments. On initial or resumed payments from date of entitlement to benefits subject to any amounts payable to or withheld for apportionments for dependents.

(e) *Retirement pay (§ 3.750)*—(1) *Election.* Date of entitlement if timely filed. Subject to prior payments of retirement pay.

(2) *Waiver.* Day following date of discontinuance or reduction of retirement pay.

(3) *Reelection.* Day the reelection is received by the Department of Veterans Affairs.

(f) *Service pension (§ 3.3(a)).* Date of receipt of claim.

(g) *Tuberculosis, special compensation for arrested.* As of the date the graduated evaluation of the disability or compensation for that degree of disablement combined with other service-connected disabilities would provide compensation payable at a rate less than \$67. See § 3.350(g).

(h) *Temporary increase “General Policy in Rating,” 1945 Schedule for Rating Disabilities*—(1) *Section 4.29 of this chapter.* Date of entrance into hospital, after 21 days of continuous hospitalization for treatment.

(2) *Section 4.30 of this chapter.* Date of entrance into hospital, after discharge from hospitalization (regular or release to non-bed care).

(i) *Increased disability pension based on attainment of age 78.* First day of the month during which veteran attains age 78.

[26 FR 1594, Feb. 24, 1961, as amended at 27 FR 11889, Dec. 1, 1962; 36 FR 4599, Mar. 10, 1971; 39 FR 17222, Mar. 14, 1974; 41 FR 36493, Aug. 30, 1976; 41 FR 55874, Dec. 23, 1976; 41 FR 56804, Dec. 30, 1976; 45 FR 34886, May 23, 1980; 54 FR 34981, Aug. 23, 1989; 62 FR 5529, Feb. 6, 1997]

### § 3.402 Surviving spouse.

Awards of pension, compensation, or dependency and indemnity compensa-

tion to or for a surviving spouse will be effective as follows:

(a) *Additional allowance of dependency and indemnity compensation for children § 3.5(e).* Commencing date of surviving spouse's award. See § 3.400(c).

(b) *Legal surviving spouse entitled.* See § 3.657.

(c) *Aid and attendance and housebound benefits.* (1) Date of receipt of claim or date entitlement arose whichever is later. However, when an award of dependency and indemnity compensation (DIC) or pension based on an original or reopened claim is effective for a period prior to date of receipt of the claim, any additional DIC or pension payable to the surviving spouse by reason of need for aid and attendance or housebound status shall also be awarded for any part of the award's retroactive period for which entitlement to the additional benefit is established.

(Authority: 38 U.S.C. 501; 5110(d))

(2) Date of departure from hospital, institutional or domiciliary care at Department of Veterans Affairs expense. This is applicable only to aid and attendance benefits. Housebound benefits may be awarded during hospitalization at Department of Veterans Affairs expense.

(Authority: 38 U.S.C. 501)

[45 FR 34887, May 23, 1980]

### § 3.403 Children.

(a) Awards of pension, compensation, or dependency and indemnity compensation to or for a child, or to or for a veteran or surviving spouse on behalf of such child, will be effective as follows:

(1) *Permanently incapable of selfsupport (§ 3.57(a)(3)).* In original claims, date fixed by §§ 3.400(b) or (c) or 3.401(b). In claims for continuation of payments, 18th birthday if the condition is claimed prior to or within 1 year after that date; otherwise from date of receipt of claim.

(2) *Majority (§ 3.854).* Direct payment to child if competent, from date of majority or, date of last payment, whichever is the earlier date.

(3) *Posthumous child.* Date of child's birth if proof of birth is received within 1 year of that date, or if notice of the

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expected or actual birth meeting the requirements of an informal claim, is received within 1 year after the veteran's death; otherwise, date of claim.

(Authority: 38 U.S.C. 5110(n))

(4) *School attendance.* (See § 3.667.)

(5) *Adopted child.* Date of adoption either interlocutory or final or date of adoptive placement agreement, but not earlier than the date from which benefits are otherwise payable.

(b) *Monetary allowance under 38 U.S.C. 1805 for an individual suffering from spina bifida who is a child of a Vietnam veteran.* An award of the monetary allowance under 38 U.S.C. 1805 to or for an individual suffering from spina bifida who is a child of a Vietnam veteran will be effective either date of birth if claim is received within one year of that date, or date of claim, but not earlier than October 1, 1997.

(Authority: 38 U.S.C. 1822, 5110; sec. 422(c), Pub. L. 104-204, 110 Stat. 2926)

(c) *Monetary allowance under 38 U.S.C. 1815 for an individual with covered birth defects who is a child of a woman Vietnam veteran.* Except as provided in § 3.114(a) or § 3.815(i), an award of the monetary allowance under 38 U.S.C. 1815 to or for an individual with one or more covered birth defects who is a child of a woman Vietnam veteran will be effective as of the date VA received the claim (or the date of birth if the claim is received within one year of that date), the date entitlement arose, or December 1, 2001, whichever is latest.

(Authority: 38 U.S.C. 1815, 1822, 1824, 5110)

(Authority: 38 U.S.C. 1806, 5110(n); sec. 422(c), Pub. L. 104-204, 110 Stat. 2926)

[26 FR 1594, Feb. 24, 1961, as amended at 27 FR 11889, Dec. 1, 1962; 36 FR 4599, Mar. 10, 1971; 38 FR 872, Jan. 5, 1973; 39 FR 20204, June 7, 1974; 41 FR 36493, Aug. 30, 1976; 45 FR 34887, May 23, 1980; 62 FR 51279, Sept. 30, 1997; 67 FR 49587, July 31, 2002]

### § 3.404 Parents.

Awards of additional amounts of compensation and dependency and indemnity compensation based on a parent's need for aid and attendance will be effective the date of receipt of claim or date entitlement arose, whichever is

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later. However, when an award of dependency and indemnity compensation based on an original or reopened claim is effective for a period prior to date of receipt of claim, any additional dependency and indemnity compensation payable by reason of need for aid and attendance may also be awarded for any part of the award's retroactive period for which entitlement to aid and attendance is established. When the parent is provided hospital, institutional or domiciliary care at Department of Veterans Affairs expense, the effective date will be the date of departure therefrom.

(Authority: 38 U.S.C. 501; 5110(d))

[45 FR 34887, May 23, 1980]

### § 3.405 Filipino veterans; benefits at the full-dollar rate.

For veterans who met the eligibility requirements in § 3.42 on October 27, 2000, and maintained such eligibility continuously from that date to the date of an administrative determination of entitlement, the effective date of awards of compensation at the full-dollar rate will be October 27, 2000. For all other veterans, awards of compensation for Filipino veterans under § 3.42 will be effective on the latest of the dates stated in this section:

(a) Date entitlement arose;

(b) Date on which the veteran first met the residency and citizenship/ permanent-resident-alien status requirements in § 3.42, if VA receives evidence of this within 1 year of that date;

(c) Effective date of the rating establishing service connection, provided VA receives evidence that the veteran meets the residency and citizenship/ permanent-resident-alien status requirements in § 3.42 within 1 year of notification of such rating action;

(d) Date the veteran returned to the United States after absence of more than 60 consecutive days; or

(e) First day of the year following the year in which the veteran was absent from the United States for a total of 183 days or more, or the first day after that date that the veteran returns to the United States.

(Authority: 38 U.S.C. 107)

[66 FR 66768, Dec. 27, 2001]